

REMARKS

Claims 1-10 as previously amended remain in the application. The specification has been amended to add a reference to Provisional Application No. 60/450,202 and claim filing benefit thereof. Reexamination and reconsideration of the application as amended are respectfully requested. The Examiner's comments are shown in bold.

Priority

If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet.

The applicant does not wish to claim filing priority under 35 U.S.C. 120. However the applicant does wish to claim filing priority of Provisional Application No. 60/450,202 under 35 U.S.C. 119(e), and has herein so amended the specification. The Filing Receipt for this application recognized the claim for filing priority of Provisional Application No. 60/450,202, and as such the applicant understands that a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required.

Claim Rejections - 35 USC § 103

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,564,782 to La Grange et al. in view of U.S. Patent No. 5,700,053 to Downing...

Regarding Claim 1:

Features of Claim 1 which are not taught in either LaGrange or Downing:
The present invention fits over the entire length of the rocker foot and stretches to fit and conform to the exact shape of the rocker foot not just the tips (LaGrange) or just the center section of the rocker foot (if you were to use Downing's art whose purpose was to cover a chair armrest).

The present invention ties at strategic points in relation to the upright legs of the rocking chair (as shown in original drawings previously submitted) . The present invention conforms to the shape of the entire rocker foot covering sides, bottom, both tips and overlaps the top of the rocker foot (as shown in original drawings previously submitted) . Fabric stretches all ways to conform properly to standard size rocker feet.

Regarding Claim 2:

Features of Claim 2 which are not shown in either LaGrange or Downing:

The elastic strip of the present invention is of such a length as to allow the slipper opening to stretch open sufficiently to enable the slipper to be placed over the entire rocker foot and when the slipper is back in place, the slipper opening conforms back to the proper size opening so that the slipper does not slip off while in operation.

Regarding Claim 3:

Features of Claim 3 which are not shown in either LaGrange or Downing:

The ties in the present invention are at strategic points based on the length and shape of a standard rocker foot which usually has a section of the rocker foot that is longer in the back than in the front and based on the location of the upright rocker leg that the rocker foot is attached to (as shown in original drawings previously submitted) .

In the present invention, the length of the ribbon is 8" to allow a bow to be tied and yet not too long that the ribbon or tie will hang down to the floor and interfere or fall under the rocker foot when in motion.

Regarding Claim 4:

Features of Claim 4 which are not shown in either LaGrange or Downing:

In the present invention, a 36" length was determined so that the slipper did not stretch too much or too little and to stretch enough to fit over the length of a standard rocker foot and then return sufficiently enough to fit snuggly and conform to the length and shape of the rocker foot once in position. The step of folding the fabric in half (as shown in original drawings previously submitted) is a shortcut in the manufacture and construction of the slipper.

Regarding Claim 5:

Features of Claim 5 which are not shown in either LaGrange or Downing:

The padding in the present invention is enclosed in such a way with stitching (as shown in original drawings previously submitted) as to prevent the padding from shifting and is a proper length to protect the floor from the part of the rocker foot that actually touches the floor when it rocks back and forth.

Regarding Claim 6:

Features of Claim 6 which are not shown in either LaGrange or Downing:

The width and length of the elastic strips in the present invention were determined to

allow the opening to stretch just enough to allow the slipper to stretch without the elastic tearing and enables it to conform back to an opening that is small enough to prevent the rocking chair slipper from falling off.

Regarding Claim 7:

Features of Claim 7 which are not shown in either LaGrange or Downing:

The present invention provides a decorative trim of stretch lace that covers the elastic opening and creates a more decorative appearance.

Regarding Claim 8:

Features of Claim 8 which are not shown in either LaGrange or Downing:

The present invention has a non-functional bow to indicate which end of the slipper is the front end, the part that fits over the short end of the rocker foot, and for decorative purposes.

Regarding Claim 9:

Features of Claim 9 which are not shown in either LaGrange or Downing:

The present invention has a non-functional bow to indicate which end of the slipper is the front end and for decorative purposes.

Regarding Claim 10:

Features of Claim 10 which are not shown in either LaGrange or Downing:

The present invention indicates all components are to be rigidly attached so that the present invention will not tear or come apart during the stretching and pulling required to place the slipper over the rocker foot before it relaxes and conforms back to the exact shape of the rocker foot.

REMARKS REGARDING BLOUNT

As cited in previous office communications, reference is made to Blount's prior art being almost identical to the present invention and it was thought that Blount's art preceeded the present invention. This has since been addressed as indicated by my cross reference claiming the filing benefit of my U. S. provisional Application filed 2/25/2003, which predates Blount.

My reference today concerns another issue regarding Blount. Blount's patent, which was cited as containing almost identical art to the present invention, was approved and issued even though LaGrange and Downings prior art existed at the time. This indicates to me that Blount's art was acceptable as new art and new teachings over LaGrange and Downing.

That being the case, it would be my hope that the present invention would also be considered new art and new teachings over LaGrange and Downing.

Your consideration is requested in this regard.

Thank you.

GENERAL REMARKS

Putting the feature of Downing into LaGrange would change the principle of operation of the present invention, or would render LaGrange and Downing inoperable. You would require two of La Granges and two of Downings art to accomplish what the current invention accomplishes. La Grange's art when placed on the front rocker tips would interfere with the legs and feet of the person seated.

In regard to Downing - The prior art cited here describes a cushioned apparatus cylindrical and tubular in shape that goes over the armrest of a chair with "jaws" that open and close and encompass the armrest of a chair having openings on both ends. Also the purpose of the prior art is to cover an armrest and to protect a person's arm and to protect the arm of the chair.

The present invention is a sleeve or slipper that completely encompasses the entire rocker foot of a rocking chair covering sides, bottom and tips with the ends being completely closed and with the purpose being to protect the rocker foot and the floor from damage, when the rocking chair is in motion. The present invention is functional as well as decorative.

In regard to LaGrange - prior art cited is a fabric guard that is U shaped and that is placed over the tips of the rocker foot either covering the two back tips or the two front tips and which is tubular and U shaped in design with each end being open to receive only the tips of the rocker foot.

The present invention completely covers the tips as well as the entire length of the rocker foot with the intention to protect the floor from the entire rocker foot.

La Grange sought to create an invention to resolve the problem of possibly injury

resulting from coming in contact with the tips of the rocker foot.

Downing sought to create an invention to resolve the problem of damage caused to the arm of a chair or the arm of an individual.

The present invention was created to protect the floor and entire rocker foot from damage and wear and tear when the rocker foot is in motion in an asthetic fashion. Another purpose of the present invention was to create a floor protector specifically for a rocking chair that can be removed for washing, and which did not require glue or nails for attaching.

To further clarify the terminology I have used to describe the part of the rocker that the present invention was specifically created for (the part of the rocker on which the present invention is used) can be referred to as a rocker, rocker foot or rocker arm. Rocker arm is not to be misinterpreted as the arm or arm rest of a chair.

In doing research for the present invention, it was found that the curved length of wood at the bottom of the rocking chair upon which the rocking chair rocks is referred to as the rocker or rocker foot or rocker arm. Rocker arm not to be confused with the arm or armrest of a chair used to rest the individual's arm.

It is hoped that all of the above has made clear, to the best of my ability, the intent and composition of the present invention as previously described in claims 1-10 and as pictured in the previously submitted drawings, and in doing so has evidenced a sufficient amount of new teachings over prior art cited to render the present invention a new art worthy of a patent.

Thank you for your time and consideration.

A fee of \$510 for a three month extension of time is included herein.

In view of the above, Applicant respectfully requests allowance of all the claims remaining in the application, namely Claims 1-10.

Respectfully submitted,



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1) Notice of References Cited (PTO-892)

2) Notice of Draftsmen's Patent Drawing Review (PTO-948)

4) Interview Summary (PTC-413)

Paper No(s)/Mail Date. _____



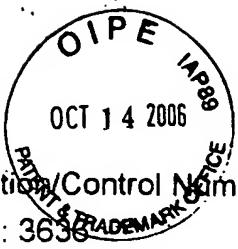
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10/758,918	01/14/2004	Barbara Jean Bury		7050
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				ART UNIT
				PAPER NUMBER
				3636

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Application Control Number: 10/758,918
Art Unit: 3636

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DETAILED ACTION

Priority

1. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim

filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,564,782 to LaGrange et al. in view of U.S. Patent No. 5,700,053 to Downing.

LaGrange et al. disclose a rocking chair slipper that is basically the same as that recited in claims 1-10 except that the fabric lacks ribbon strips and two layers of fabric housing the foam, as recited in the claims. See Figures 1-5 of LaGrange et al. for the teaching that the slipper has an elastic strip(s) 36 (see Fig. 2) attached around an edge of an opening, a fabric 28 that stretches all ways to expand to fit and conform to the shape and length of a rocker foot and includes decorative trim, and foam 37 (Fig. 3A) inserted in the fabric on the bottom of the slipper. Downing shows a slipper similar to that of LaGrange et al. wherein the slipper has a fabric with an opening, ribbons about eight inches in length that are on both side of the fabric edge and located about 6-8 inches from the front and back corners of the opening, and a foam located between two layers of the fabric. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the slipper of LaGrange et al. such that the fabric includes ribbons on both sides of the fabric edge, eight inches in length, one ribbon located eight inches from the front corner of the fabric opening,

another ribbon located six inches from the back corner of the fabric opening, and the foam is inserted between two layers of the fabric on the bottom of the slipper, such as the slipper disclosed in Downing. One would have been motivated to make such a modification in view of the suggestion in Downing that the ribbon allow for easy attachment of the slipper to a chair and the foam inserted in the fabric provides a pocket for holding the foam in place.

Although the lengths of the ribbons, the elastic strip, and the fabric are not specifically recited, modifying these lengths would have been obvious at the time of Applicant's invention because the use of preferred lengths and the optimum or workable ranges discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the lengths of the ribbons, the elastic strip, and the fabric since the Applicant has not disclosed that having the specific lengths solve any stated problem or is for any particular purpose and it appears that the ribbons and elastic strip would perform equally well with an well known lengths used in the art.

Response to Amendment

4. The amendment to the claims filed on 15 February 2006 does not comply with the requirements of 37 CFR 1.121(c) because the amendment includes text from previously submitted amendments that were deemed non-compliant, e.g. the parentheses included throughout claim 1 that were not in the originally filed claim 1. In

the event of another amendment to the claims, the amendment must comply with 37 CFR 1.121(c)

Response to Arguments

5. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JE
April 25, 2006


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600



Notice of References Cited		Application/Control No.	Applicant(s)/Patent Under Reexamination	
		10/758,918	BURY, BARBARA JEAN	
		Examiner	Art Unit	Page 1 of 1
		Joseph F. Edell	3636	

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,700,053	12-1997	Downing, David	297/227
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)	
	U		
	V		
	W		
	X		

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.